



GENERAL ASSEMBLY COMMONWEALTH OF KENTUCKY

2013 REGULAR SESSION

HOUSE BILL NO. 69

AS ENACTED

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

1 AN ACT relating to domestic relations and declaring an emergency.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 →Section 1. KRS 403.320 is amended to read as follows:

4 (1) A parent not granted custody of the child is entitled to reasonable visitation rights
5 unless the court finds, after a hearing, that visitation would endanger seriously the
6 child's physical, mental, moral, or emotional health. Upon request of either party,
7 the court shall issue orders which are specific as to the frequency, timing, duration,
8 conditions, and method of scheduling visitation and which reflect the development
9 age of the child.

10 (2) If domestic violence and abuse, as defined in KRS 403.720, has been alleged, the
11 court shall, after a hearing, determine the visitation arrangement, if any, which
12 would not endanger seriously the child's or the custodial parent's physical, mental,
13 or emotional health.

14 (3) The court may modify an order granting or denying visitation rights whenever
15 modification would serve the best interests of the child; but the court shall not
16 restrict a parent's visitation rights unless it finds that the visitation would endanger
17 seriously the child's physical, mental, moral, or emotional health.

18 (4) (a) Except as provided in paragraph (b) of this subsection, any court-ordered
19 modification of a child visitation decree, based in whole or in part on:

20 1. The active duty of a parent or a de facto custodian as a regular
21 member of the United States Armed Forces deployed outside the
22 United States; or

23 2. Any federal active duty of a parent or a de facto custodian as a
24 member of a state National Guard or a Reserve component;

25 shall be temporary and shall revert back to the previous child visitation
26 decree at the end of the deployment outside the United States or the federal
27 active duty, as appropriate.

1 (b) A parent or de facto custodian identified in paragraph (a) of this subsection
 2 may consent to a modification of a child visitation decree that continues
 3 past the end of the deployment outside the United States or the federal active
 4 duty, as appropriate.

5 (5) Under circumstances where the court finds, by clear and convincing evidence, it
 6 is in the best interest of the child, any relative, by blood or affinity, that was
 7 previously granted temporary custody pursuant to the provisions of KRS 620.090
 8 may be granted reasonable noncustodial parental visitation rights by a Circuit
 9 Court or Family Court as an intervenor or by original action. Once the relative
 10 has been granted visitation pursuant to this subsection, those rights shall not be
 11 adversely affected by the termination of custodial or parental rights of an
 12 individual who has permanent custody of the child unless the court determines
 13 that termination of the visitation rights are in the best interests of the child. The
 14 action shall be brought in the county in which the temporary or permanent
 15 custody order was entered or where the child resides.

16 →SECTION 2. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO
 17 READ AS FOLLOWS:

18 (1) As used in this section, "safe child drop-off location" means any public building
 19 owned, leased, or occupied by the Commonwealth, or by any city or county within
 20 the Commonwealth, to which access is limited and security measures, including
 21 metal detectors, are in place.

22 (2) Any separation agreement, decree of divorce, temporary custody order, or post-
 23 decree order may require that exchanges of child custody take place in a safe
 24 child drop-off location at a point past the metal detectors and other security
 25 measures.

26 (3) Public buildings owned, leased, or occupied by the Commonwealth, or by any city
 27 or county within the Commonwealth, to which access is limited and in which

1 security measures, including metal detectors, are in place, may allow access to
2 spaces otherwise open to the public for use as a safe child drop-off location, but
3 no such building shall be required to make any other accommodation for such
4 use.

5 →Section 3. KRS 610.125 is amended to read as follows:

- 6 (1) If a child has been removed from the home and placed in the custody of the
7 Department of Juvenile Justice or the cabinet, a judge of the District Court shall
8 conduct a permanency hearing no later than twelve (12) months after the date the
9 child is considered to have entered foster care, and every twelve (12) months
10 thereafter if custody and out-of-home placement continues, to determine the future
11 status of the child. For purposes of this section, a child shall be considered to have
12 entered foster care on the earlier of the date of the first judicial finding that the child
13 has been subjected to child abuse or neglect or the date that is sixty (60) days after
14 the date on which the child is removed from the home.

15 The court shall address the following areas:

- 16 (a) If parental rights have not been terminated, whether the child should be
17 returned to the parent;
- 18 (b) Whether the child should be placed for adoption;
- 19 (c) Whether the child should be placed with a permanent custodian; and
- 20 (d) Whether the cabinet has documented a compelling reason that it is in the best
21 interest of the child to be placed in another planned permanent living
22 arrangement other than those listed in this subsection.
- 23 (2) If the cabinet or the Department of Juvenile Justice determines that reasonable
24 efforts to reunify the child with the child's parent will not be made, the cabinet or
25 Department of Juvenile Justice shall file a case permanency plan as defined by KRS
26 620.230 or case progress report with the court that documents the reasons for not
27 making reasonable efforts. The court shall hold a permanency hearing within thirty

1 (30) days of the filing of the cabinet's or Department of Juvenile Justice's plan or
2 report with the Court.

3 (3) The Department of Juvenile Justice or the cabinet shall inform the court not less
4 than sixty (60) days prior to the expiration of the time in which the hearing shall be
5 held and within the time established in subsection (1) of this section, and shall
6 further inform the court of the name and address of the child's foster parents,
7 preadoptive parents, or relatives providing care to the child; court-appointed special
8 advocate; and foster care review board member assigned to the case. For the hearing
9 to be held pursuant to subsection (2) of this section, the names and addresses of the
10 persons identified in this subsection shall be provided in the case permanency plan
11 or case progress report to be filed with the court. The court shall set a time for the
12 hearing and notify the child's parent, foster parents, preadoptive parents, or relatives
13 providing care to the child and who also shall have a right to be heard; court-
14 appointed special advocate; foster care review board member assigned to the case;
15 attorney for the child; attorney for the parent, if any; and the Department of Juvenile
16 Justice or the cabinet.

17 (4) The Department of Juvenile Justice or the cabinet shall present evidence to the court
18 concerning the care and progress of the child since the last permanency hearing,
19 including the following:

20 (a) The length of time the child has been committed to the Department of
21 Juvenile Justice or the cabinet;

22 (b) The number, location, and date for each placement during the total period of
23 the child's commitment;

24 (c) A description of the services and assistance provided to the parent or arranged
25 by the Department of Juvenile Justice or the cabinet since the last case
26 permanency plan or case progress report, and the results achieved;

27 (d) A description of the efforts and progress of the child's parent since the last

- 1 case permanency plan and case progress report, including the number and
 2 dates of parental visits and the extent, quality, and frequency of the parent's
 3 communication with the child;
- 4 (e) The familial and institutional barriers to:
- 5 1. Returning the child to the home;
- 6 2. Ending the commitment of the child to the Department of Juvenile
 7 Justice or the cabinet; and
- 8 3. Delivery of appropriate services needed by the child;
- 9 (f) Recommendations of services needed to make the transition from out-of-home
 10 care to independent living for children who have reached the age of sixteen
 11 (16) years;
- 12 (g) An evaluation of the child's current placement and services provided to the
 13 child;
- 14 (h) Recommendations for necessary services required to terminate the
 15 commitment of the child to the cabinet, to return the child home, or to
 16 facilitate another permanent placement; and
- 17 (i) Recommendations as to the permanency goal for the child.
- 18 (5) **(a)** The child's parent, foster parent, preadoptive parent, relative providing care to
 19 the child **shall have the right to be heard; and**
- 20 **(b)** ~~The~~ attorney for the parent, attorney for the child, or court-appointed special
 21 advocate, if deemed appropriate by the court, may present any evidence
 22 relevant to the determination of a permanency goal for the child.
- 23 (6) Upon conclusion of the hearing the court shall make a written order determining the
 24 permanency plan for the child.
- 25 (7) If necessary, the case may be redocketed for further review of the progress toward
 26 the implementation of the permanency plan established at the permanency hearing.
- 27 ➔Section 4. KRS 610.127 is amended to read as follows:

1 Reasonable efforts as defined in KRS 620.020 shall not be required to be made with
 2 respect to a parent of a child if a court of competent jurisdiction determines that the
 3 parent has:

- 4 (1) Subjected the child to aggravated circumstances as defined in KRS 600.020;
- 5 (2) Been convicted in a criminal proceeding of having caused or contributed to the
 6 death of another child of the parent;
- 7 (3) Committed a felony assault that resulted in serious bodily injury to the child or to
 8 another child of the parent;
- 9 (4) Had their parental rights to another child terminated involuntarily;
- 10 (5) Engaged in a pattern of conduct due to alcohol or other drug abuse as defined in
 11 KRS 222.005 for a period of not less than ninety (90) days that has rendered the
 12 parent incapable of caring for the immediate and ongoing needs of the child, and the
 13 parent has refused or failed to complete available treatment for alcohol or other drug
 14 abuse;
- 15 (6) Mental illness as defined in KRS 202A.011 or is an individual with an intellectual
 16 disability as defined in KRS 202B.010 or other developmental disability as defined
 17 in KRS 387.510 that places the child at substantial risk of physical or emotional
 18 injury even if the most appropriate and available services were provided to the
 19 parent for twelve (12) months;~~[-or]~~
- 20 (7) *Sexually abused the child or is required to register on a sex offender registry*
 21 *under 42 U.S.C. sec. 16913, the Adam Walsh Child Protection and Safety Act of*
 22 *2006 Pub. L. No. 109-248; or*
- 23 (8) Other circumstances in existence that make continuation or implementation of
 24 reasonable efforts to preserve or reunify the family inconsistent with the best
 25 interests of the child and with the permanency plan for the child.

26 →SECTION 5. KRS 615.030 IS REPEALED AND REENACTED TO READ AS
 27 FOLLOWS:

1 ARTICLE I

2 PURPOSE

3 The purpose of the Interstate Compact for the Placement of Children shall be to:

4 (1) Provide a process through which children subject to this compact are placed in
5 safe and suitable homes in a timely manner;

6 (2) Facilitate ongoing supervision of a placement, the delivery of services, and
7 communication between the states;

8 (3) Provide operating procedures that will ensure that children are placed in safe and
9 suitable homes in a timely manner;

10 (4) Provide for the promulgation and enforcement of administrative rules
11 implementing the provisions of this compact and regulating the covered activities
12 of the member states;

13 (5) Provide for uniform data collection and information sharing between member
14 states under this compact;

15 (6) Promote coordination between this compact, the Interstate Compact for
16 Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other
17 compacts affecting the placement of and which provide services to children
18 otherwise subject to this compact;

19 (7) Provide for a state's continuing legal jurisdiction and responsibility for placement
20 and care of a child that it would have had if the placement were intrastate; and

21 (8) Provide for the promulgation of guidelines, in collaboration with Indian tribes,
22 for interstate cases involving Indian children as is or may be permitted by federal
23 law.

24 ARTICLE II

25 DEFINITIONS

26 As used in this compact, unless the context clearly requires a different construction:

27 (1) "Approved placement" means the public child placing agency in the receiving

- 1 state has determined that the placement is both safe and suitable for the child.
- 2 (2) "Assessment" means an evaluation of a prospective placement by a public child
3 placing agency to determine whether the placement meets the individualized
4 needs of the child, including but not limited to the child's safety and stability,
5 health and well-being, and mental, emotional, and physical development. An
6 assessment shall be only applicable to a placement by a public child placing
7 agency.
- 8 (3) "Child" means an individual who has not attained the age of eighteen (18).
- 9 (4) "Certification" means to attest, declare, or sworn to before a judge or notary
10 public.
- 11 (5) "Default" means the failure of a member state to perform the obligations or
12 responsibilities imposed upon it by this compact, the bylaws or rules of the
13 Interstate Commission.
- 14 (6) "Home Study" means an evaluation of a home environment conducted in
15 accordance with the applicable requirements of the state in which the home is
16 located, and documents the preparation and the suitability of the placement
17 resource for placement of a child in accordance with the laws and requirements
18 of the state in which the home is located.
- 19 (7) "Indian tribe" means any Indian tribe, band, nation, or other organized group or
20 community of Indians recognized as eligible for services provided to Indians by
21 the Secretary of the Interior because of their status as Indians, including any
22 Alaskan native village as defined in section 3 (c) of the Alaska Native Claims
23 Settlement Act at 43 U.S.C. sec. 1602(c).
- 24 (8) "Interstate Commission for the Placement of Children" means the commission
25 that is created under Article VIII of this compact and which is generally referred
26 to as the Interstate Commission.
- 27 (9) "Jurisdiction" means the power and authority of a court to hear and decide

1 matters.

2 (10) "Legal Risk Placement" or "Legal Risk Adoption" means a placement made
3 preliminary to an adoption where the prospective adoptive parents acknowledge
4 in writing that a child can be ordered returned to the sending state or the birth
5 mother's state of residence, if different from the sending state. A final decree of
6 adoption shall not be entered in any jurisdiction until all required consents are
7 obtained or are dispensed with in accordance with applicable law.

8 (11) "Member state" means a state that has enacted this compact.

9 (12) "Noncustodial parent" means a person who, at the time of the commencement of
10 court proceedings in the sending state, does not have sole legal custody of the
11 child or has joint legal custody of a child, and who is not the subject of
12 allegations or findings of child abuse or neglect.

13 (13) "Nonmember state" means a state which has not enacted this compact.

14 (14) "Notice of residential placement" means information regarding a placement into
15 a residential facility provided to the receiving state including, but not limited to
16 the name, date, and place of birth of the child, the identity and address of the
17 parent or legal guardian, evidence of authority to make the placement, and the
18 name and address of the facility in which the child will be placed. Notice of
19 residential placement shall also include information regarding a discharge and
20 any unauthorized absence from the facility.

21 (15) "Placement" means the act by a public or private child placing agency intended
22 to arrange for the care or custody of a child in another state.

23 (16) "Private child placing agency" means any private corporation, agency,
24 foundation, institution, or charitable organization, or any private person or
25 attorney that facilitates, causes, or is involved in the placement of a child from
26 one state to another and that is not an instrumentality of the state or acting under
27 color of state law.

- 1 (17) "Provisional placement" means a determination made by the public child placing
2 agency in the receiving state that the proposed placement is safe and suitable,
3 and, to the extent allowable, the receiving state has temporarily waived its
4 standards or requirements otherwise applicable to prospective foster or adoptive
5 parents so as to not delay the placement. Completion of the receiving state
6 requirements regarding training for prospective foster or adoptive parents shall
7 not delay an otherwise safe and suitable placement.
- 8 (18) "Public child placing agency" means any government child welfare agency or
9 child protection agency or a private entity under contract with such an agency,
10 regardless of whether they act on behalf of a state, county, municipality, or other
11 governmental unit and which facilitates, causes, or is involved in the placement
12 of a child from one state to another.
- 13 (19) "Receiving state" means the state to which a child is sent, brought, or caused to
14 be sent or brought.
- 15 (20) "Relative" means someone who is related to the child as a parent, step-parent,
16 sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first
17 cousin, or a nonrelative with such significant ties to the child that they may be
18 regarded as relatives as determined by the court in the sending state.
- 19 (21) "Residential Facility" means a facility providing a level of care that is sufficient
20 to substitute for parental responsibility or foster care, and is beyond what is
21 needed for assessment or treatment of an acute condition. For purposes of the
22 compact, residential facilities do not include institutions primarily educational in
23 character, hospitals, or other medical facilities.
- 24 (22) "Rule" means a written directive, mandate, standard, or principle issued by the
25 Interstate Commission promulgated pursuant to Article XI of this compact that is
26 of general applicability and that implements, interprets, or prescribes a policy or
27 provision of the compact. "Rule" has the force and effect of statutory law in a

1 member state, and includes the amendment, repeal, or suspension of an existing
 2 rule.

3 (23) "Sending state" means the state from which the placement of a child is initiated.

4 (24) "Service member's permanent duty station" means the military installation
 5 where an active duty Armed Services member is currently assigned and is
 6 physically located under competent orders that do not specify the duty as
 7 temporary.

8 (25) "Service member's state of legal residence" means the state in which the active
 9 duty Armed Services member is considered a resident for tax and voting
 10 purposes.

11 (26) "State" means a state of the United States, the District of Columbia, the
 12 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American
 13 Samoa, the Northern Marianas Islands, and any other territory of the United
 14 States.

15 (27) "State court" means a judicial body of a state that is vested by law with
 16 responsibility for adjudicating cases involving abuse, neglect, deprivation,
 17 delinquency, or status offenses of individuals who have not attained the age of
 18 eighteen (18).

19 (28) "Supervision" means monitoring provided by the receiving state once a child has
 20 been placed in a receiving state pursuant to this compact.

21 ARTICLE III

22 APPLICABILITY

23 (1) Except as otherwise provided in subsection (2) of this Article, this compact shall
 24 apply to:

25 (a) The interstate placement of a child subject to ongoing court jurisdiction in
 26 the sending state, due to allegations or findings that the child has been
 27 abused, neglected, or deprived as defined by the laws of the sending state,

1 provided, however, that the placement of such a child into a residential
 2 facility shall only require notice of residential placement to the receiving
 3 state prior to placement;

4 (b) The interstate placement of a child adjudicated delinquent or
 5 unmanageable based on the laws of the sending state and subject to
 6 ongoing court jurisdiction of the sending state if:

7 1. The child is being placed in a residential facility in another member
 8 state and is not covered under another compact; or

9 2. The child is being placed in another member state and the
 10 determination of safety and suitability of the placement and services
 11 required is not provided through another compact; and

12 (c) The interstate placement of any child by a public child placing agency or
 13 private child placing agency as defined in this compact as a preliminary step
 14 to a possible adoption.

15 (2) The provisions of this compact shall not apply to:

16 (a) The interstate placement of a child in a custody proceeding in which a
 17 public child placing agency is not a party if the placement is not intended to
 18 effectuate an adoption;

19 (b) The interstate placement of a child with a nonrelative in a receiving state by
 20 a parent with the legal authority to make such a placement provided,
 21 however, that the placement is not intended to effectuate an adoption;

22 (c) The interstate placement of a child by one relative with the lawful authority
 23 to make such a placement directly with a relative in a receiving state;

24 (d) The placement of a child, not subject to subsection (1) of this Article, into a
 25 residential facility by his parent;

26 (e) The placement of a child with a noncustodial parent provided that:

27 1. The noncustodial parent proves to the satisfaction of a court in the

- 1 sending state a substantial relationship with the child;
- 2 2. The court in the sending state makes a written finding that placement
- 3 with the noncustodial parent is in the best interests of the child; and
- 4 3. The court in the sending state dismisses its jurisdiction over the child's
- 5 case;
- 6 (f) A child entering the United States from a foreign country for the purpose of
- 7 adoption or leaving the United States to go to a foreign country for the
- 8 purpose of adoption in that country;
- 9 (g) Cases in which a United States citizen child living overseas with his family,
- 10 at least one of whom is in the United States Armed Services, and who is
- 11 stationed overseas, is removed and placed in a state; or
- 12 (h) The sending of a child by a public child placing agency or a private child
- 13 placing agency for a visit as defined by the rules of the Interstate
- 14 Commission.
- 15 (3) For purposes of determining the applicability of this compact to the placement of
- 16 a child with a family in the Armed Services, the public child placing agency or
- 17 private child placing agency may choose the state of the service member's
- 18 permanent duty station or the service member's declared legal residence.
- 19 (4) Nothing in this compact shall be construed to prohibit the concurrent application
- 20 of the provisions of this compact with other applicable interstate compacts
- 21 including the Interstate Compact for Juveniles and the Interstate Compact on
- 22 Adoption and Medical Assistance. The Interstate Commission may in cooperation
- 23 with other interstate compact commissions having responsibility for the interstate
- 24 movement, placement, or transfer of children, promulgate like rules to ensure the
- 25 coordination of services, timely placement of children, and the reduction of
- 26 unnecessary or duplicative administrative or procedural requirements.

27 ARTICLE IV

JURISDICTION

1
2 (1) Except as provided in subsection (7) of this Article, concerning private and
3 independent adoptions, the sending state shall retain jurisdiction over a child
4 with respect to all matters of custody and disposition of the child which it would
5 have had if the child had remained in the sending state. Such jurisdiction shall
6 also include the power to order the return of the child to the sending state.

7 (2) When an issue of child protection or custody is brought before a court in the
8 receiving state, such court shall confer with the court of the sending state to
9 determine the most appropriate forum for adjudication.

10 (3) In cases that are before courts and subject to this compact, the taking of
11 testimony for hearings before any judicial officer may occur in person or by
12 telephone, audio-video conference, or such other means as approved by the rules
13 of the Interstate Commission; and Judicial officers may communicate with other
14 judicial officers and persons involved in the interstate process as may be
15 permitted by their Canons of Judicial Conduct and any rules promulgated by the
16 Interstate Commission.

17 (4) In accordance with its own laws, the court in the sending state shall have
18 authority to terminate its jurisdiction if:

19 (a) The child is reunited with the parent in the receiving state who is the subject
20 of allegations or findings of abuse or neglect, only with the concurrence of
21 the public child placing agency in the receiving state;

22 (b) The child is adopted;

23 (c) The child reaches the age of majority under the laws of the sending state;

24 (d) The child achieves legal independence pursuant to the laws of the sending
25 state;

26 (e) A guardianship is created by a court in the receiving state with the
27 concurrence of the court in the sending state;

- 1 (f) An Indian tribe has petitioned for and received jurisdiction from the court
2 in the sending state; or
- 3 (g) The public child placing agency of the sending state requests termination
4 and has obtained the concurrence of the public child placing agency in the
5 receiving the state.
- 6 (5) When a sending state court terminates its jurisdiction, the receiving state child
7 placing agency shall be notified.
- 8 (6) Nothing in this article shall defeat a claim of jurisdiction by a receiving state
9 court sufficient to deal with an act of truancy, delinquency, crime, or behavior
10 involving a child as defined by the laws of the receiving state committed by the
11 child in the receiving state which would be a violation of its laws.
- 12 (7) Nothing in this article shall limit the receiving state's ability to take emergency
13 jurisdiction for the protection of the child.
- 14 (8) The substantive laws of the state in which an adoption will be finalized shall
15 solely govern all issues relating to the adoption of the child and the court in
16 which the adoption proceeding is filed shall have subject matter jurisdiction
17 regarding all substantive issues relating to the adoption, except:
- 18 (a) When the child is a ward of another court that established jurisdiction over
19 the child prior to the placement;
- 20 (b) When the child is in the legal custody of a public agency in the sending
21 state; or
- 22 (c) When a court in the sending state has otherwise appropriately assumed
23 jurisdiction over the child, prior to the submission of the request for
24 approval of placement.
- 25 (9) A final decree of adoption shall not be entered in any jurisdiction until the
26 placement is authorized as an approved placement by the public child placing
27 agency in the receiving state.

- 1 (4) Approval from the public child placing agency in the receiving state for a
2 provisional or approved placement shall be required as provided for in the rules
3 of the Interstate Commission.
- 4 (5) The procedures for making and the request for an assessment shall contain all
5 information and be in such form as provided for in the rules of the Interstate
6 Commission.
- 7 (6) Upon receipt of a request from the public child welfare agency of the sending
8 state, the receiving state shall initiate an assessment of the proposed placement to
9 determine its safety and suitability. If the proposed placement is a placement with
10 a relative, the public child placing agency of the sending state may request a
11 determination of whether the placement qualifies as a provisional placement.
- 12 (7) The public child placing agency in the receiving state may request, and shall be
13 entitled to receive, supporting or additional information necessary to complete the
14 assessment or approve the placement from the public child placing agency or the
15 private child placing agency in the sending state.
- 16 (8) The public child placing agency in the receiving state shall approve a provisional
17 placement and complete or arrange for the completion of the assessment within
18 the time frames established by the rules of the Interstate Commission.
- 19 (9) For a placement by a private child placing agency, the sending state shall not
20 impose any additional requirements to complete the home study that are not
21 required by the receiving state, unless the adoption is finalized in the sending
22 state.
- 23 (10) The Interstate Commission may develop uniform standards for the assessment of
24 the safety and suitability of interstate placements.

25 ARTICLE VI

26 PLACEMENT AUTHORITY

- 27 (1) Except as provided in this compact no child subject to this compact shall be

1 placed into a receiving state until approval for such placement is obtained.

2 (2) If the public child placing agency in the receiving state does not approve the
 3 proposed placement then the child shall not be placed. The receiving state shall
 4 provide written documentation of any such determination in accordance with the
 5 rules promulgated by the Interstate Commission. Such determination shall not be
 6 subject to judicial review in the sending state.

7 (3) If the proposed placement is not approved, any interested party shall have
 8 standing to seek an administrative review of the receiving state's determination.

9 (4) The administrative review and any further judicial review associated with the
 10 determination shall be conducted in the receiving state pursuant to its applicable
 11 administrative procedures.

12 (5) If a determination not to approve the placement of the child in the receiving state
 13 is overturned upon review, the placement shall be deemed approved, provided
 14 however that all administrative or judicial remedies have been exhausted or the
 15 time for such remedies has passed.

16 ARTICLE VII

17 PLACING AGENCY RESPONSIBILITY

18 (1) For the interstate placement of a child made by a public child placing agency or
 19 state court:

20 (a) The public child placing agency in the sending state shall have financial
 21 responsibility for:

22 1. The ongoing support and maintenance for the child during the period
 23 of the placement, unless otherwise provided for in the receiving state;

24 and

25 2. As determined by the public child placing agency in the sending state,
 26 services for the child beyond the public services for which the child is
 27 eligible in the receiving state; and

- 1 **(b) The receiving state shall only have financial responsibility for:**
- 2 **1. Any assessment conducted by the receiving state; and**
- 3 **2. Supervision conducted by the receiving state at the level necessary to**
- 4 **support the placement as agreed upon by the public child placing**
- 5 **agencies of the receiving and sending state; and**
- 6 **(c) Nothing in this provision shall prohibit public child placing agencies in the**
- 7 **sending state from entering into agreements with licensed agencies or**
- 8 **persons in the receiving state to conduct assessments and provide**
- 9 **supervision.**
- 10 **(2) For the placement of a child by a private child placing agency preliminary to a**
- 11 **possible adoption, the private child placing agency shall be:**
- 12 **(a) Legally responsible for the child during the period of placement as provided**
- 13 **for in the law of the sending state until the finalization of the adoption; and**
- 14 **(b) Financially responsible for the child absent a contractual agreement to the**
- 15 **contrary.**
- 16 **(3) The public child placing agency in the receiving state shall provide timely**
- 17 **assessments, as provided for in the rules of the Interstate Commission.**
- 18 **(4) The public child placing agency in the receiving state shall provide, or arrange**
- 19 **for the provision of, supervision and services for the child, including timely**
- 20 **reports, during the period of the placement.**
- 21 **(5) Nothing in this compact shall be construed as to limit the authority of the public**
- 22 **child placing agency in the receiving state from contracting with a licensed**
- 23 **agency or person in the receiving state for an assessment or the provision of**
- 24 **supervision or services for the child or otherwise authorizing the provision of**
- 25 **supervision or services by a licensed agency during the period of placement.**
- 26 **(6) Each member state shall provide for coordination among its branches of**
- 27 **government concerning the state's participation in, and compliance with, the**

1 compact and Interstate Commission activities, through the creation of an
 2 advisory council or use of an existing body or board.

3 (7) Each member state shall establish a central state compact office, which shall be
 4 responsible for state compliance with the compact and the rules of the Interstate
 5 Commission.

6 (8) The public child placing agency in the sending state shall oversee compliance
 7 with the provisions of the Indian Child Welfare Act, 25 U.S.C. sec. 1901 et seq.,
 8 for placements subject to the provisions of this compact, prior to placement.

9 (9) With the consent of the Interstate Commission, states may enter into limited
 10 agreements that facilitate the timely assessment and provision of services and
 11 supervision of placements under this compact.

ARTICLE VIII

INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

14 The member states hereby establish, by way of this compact, a commission known as
 15 the "Interstate Commission for the Placement of Children." The activities of the
 16 Interstate Commission may be the formation of public policy and shall be a
 17 discretionary state function. The Interstate Commission shall:

18 (1) Be a joint commission of the member states and shall have the responsibilities,
 19 powers, and duties set forth in this compact, and such additional powers as may
 20 be conferred upon it by subsequent concurrent action of the respective
 21 legislatures of the member states.

22 (2) Consist of one commissioner from each member state who shall be appointed by
 23 the executive head of the state human services administration with ultimate
 24 responsibility for the child welfare program. The appointed commissioner shall
 25 have the legal authority to vote on policy related matters governed by this
 26 compact binding the state.

27 (a) Each member state represented at a meeting of the Interstate Commission

- 1 shall be entitled to one vote;
- 2 (b) A majority of the member states shall constitute a quorum for the
- 3 transaction of business, unless a larger quorum is required by the bylaws of
- 4 the Interstate Commission;
- 5 (c) A representative shall not delegate a vote to another member state; and
- 6 (d) A representative may delegate voting authority to another person from their
- 7 state for a specified meeting.
- 8 (3) In addition to the commissioners of each member state, the Interstate
- 9 Commission shall include persons who are members of interested organizations
- 10 as defined in the bylaws or rules of the Interstate Commission. Such members
- 11 shall be ex officio and shall not be entitled to vote on any matter before the
- 12 Interstate Commission.
- 13 (4) Establish an executive committee which shall have the authority to administer the
- 14 day-to-day operations and administration of the Interstate Commission. It shall
- 15 not have the power to engage in rule making.

ARTICLE IX

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

- 19 (1) To promulgate rules and take all necessary actions to effect the goals, purposes,
- 20 and obligations as enumerated in this compact;
- 21 (2) To provide for dispute resolution among member states;
- 22 (3) To issue, upon request of a member state, advisory opinions concerning the
- 23 meaning or interpretation of the interstate compact, its bylaws, rules, or actions;
- 24 (4) To enforce compliance with this compact or the bylaws or rules of the Interstate
- 25 Commission pursuant to Article XII;
- 26 (5) Collect standardized data concerning the interstate placement of children subject
- 27 to this compact as directed through its rules which shall specify the data to be

- 1 collected, the means of collection, and data exchange and reporting
2 requirements;
- 3 (6) To establish and maintain offices as may be necessary for the transacting of its
4 business;
- 5 (7) To purchase and maintain insurance and bonds;
- 6 (8) To hire or contract for services of personnel or consultants as necessary to carry
7 out its functions under the compact and establish personnel qualification
8 policies, and rates of compensation;
- 9 (9) To establish and appoint committees and officers including, but not limited to, an
10 executive committee as required by Article X;
- 11 (10) To accept any and all donations and grants of money, equipment, supplies,
12 materials, and services, and to receive, utilize, and dispose thereof;
- 13 (11) To lease, purchase, accept contributions or donations of, or otherwise to own,
14 hold, improve, or use any property, real, personal, or mixed;
- 15 (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose
16 of any property, real, personal, or mixed;
- 17 (13) To establish a budget and make expenditures;
- 18 (14) To adopt a seal and bylaws governing the management and operation of the
19 Interstate Commission;
- 20 (15) To report annually to the legislatures, governors, the judiciary, and state advisory
21 councils of the member states concerning the activities of the Interstate
22 Commission during the preceding year. Such reports shall also include any
23 recommendations that may have been adopted by the Interstate Commission;
- 24 (16) To coordinate and provide education, training, and public awareness regarding
25 the interstate movement of children for officials involved in such activity;
- 26 (17) To maintain books and records in accordance with the bylaws of the Interstate
27 Commission; and

1 (18) To perform such functions as may be necessary or appropriate to achieve the
2 purposes of this compact.

3 ARTICLE X

4 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

5 Section A. Bylaws

6 (1) Within twelve (12) months after the first Interstate Commission meeting, the
7 Interstate Commission shall adopt bylaws to govern its conduct as may be
8 necessary or appropriate to carry out the purposes of the compact.

9 (2) The Interstate Commission's bylaws and rules shall establish conditions and
10 procedures under which the Interstate Commission shall make its information
11 and official records available to the public for inspection or copying. The
12 Interstate Commission may exempt from disclosure information or official
13 records to the extent they would adversely affect personal privacy rights or
14 proprietary interests.

15 Section B. Meetings

16 (1) The Interstate Commission shall meet at least once each calendar year. The
17 chairperson may call additional meetings and, upon the request of a simple
18 majority of the member states shall call additional meetings.

19 (2) Public notice shall be given by the Interstate Commission of all meetings and all
20 meetings shall be open to the public, except as set forth in the rules or as
21 otherwise provided in the compact. The Interstate Commission and its committees
22 may close a meeting, or portion thereof, where it determines by two-thirds vote
23 that an open meeting would be likely to:

24 (a) Relate solely to the Interstate Commission's internal personnel practices
25 and procedures;

26 (b) Disclose matters specifically exempted from disclosure by federal law;

27 (c) Disclose financial or commercial information which is privileged,

- 1 proprietary, or confidential in nature;
- 2 (d) Involve accusing a person of a crime, or formally censuring a person;
- 3 (e) Disclose information of a personal nature where disclosure would
4 constitute a clearly unwarranted invasion of personal privacy or physically
5 endanger one or more persons;
- 6 (f) Disclose investigative records compiled for law enforcement purposes; or
- 7 (g) Specifically relate to the Interstate Commission's participation in a civil
8 action or other legal proceeding.
- 9 (3) For a meeting, or portion of a meeting, closed pursuant to this provision, the
10 Interstate Commission's legal counsel or designee shall certify that the meeting
11 may be closed and shall reference each relevant exemption provision. The
12 Interstate Commission shall keep minutes which shall fully and clearly describe
13 all matters discussed in a meeting and shall provide a full and accurate summary
14 of actions taken, and the reasons therefore, including a description of the views
15 expressed and the record of a roll call vote. All documents considered in
16 connection with an action shall be identified in such minutes. All minutes and
17 documents of a closed meeting shall remain under seal, subject to release by a
18 majority vote of the Interstate Commission or by court order.
- 19 (4) The bylaws may provide for meetings of the Interstate Commission to be
20 conducted by telecommunication or other electronic communication.

21 Section C. Officers and Staff

- 22 (1) The Interstate Commission may, through its executive committee, appoint or
23 retain a staff director for such period, upon such terms and conditions and for
24 such compensation as the Interstate Commission may deem appropriate. The
25 staff director shall serve as secretary to the Interstate Commission, but shall not
26 have a vote. The staff director may hire and supervise such other staff as may be
27 authorized by the Interstate Commission.

1 (2) The Interstate Commission shall elect, from among its members, a chairperson
2 and a vice chairperson of the executive committee and other necessary officers,
3 each of whom shall have such authority and duties as may be specified in the
4 bylaws.

5 Section D. Qualified Immunity, Defense, and Indemnification

6 (1) The Interstate Commission's staff director and its employees shall be immune
7 from suit and liability, either personally or in their official capacity, for a claim
8 for damage to or loss of property or personal injury or other civil liability caused
9 or arising out of or relating to an actual or alleged act, error, or omission that
10 occurred, or that such person had a reasonable basis for believing occurred
11 within the scope of commission employment, duties, or responsibilities, provided,
12 that such person shall not be protected from suit or liability for damage, loss,
13 injury, or liability caused by a criminal act or the intentional or willful and
14 wanton misconduct of such person.

15 (a) The liability of the Interstate Commission's staff director and employees or
16 Interstate Commission representatives, acting within the scope of such
17 person's employment or duties for acts, errors, or omissions occurring
18 within such person's state may not exceed the limits of liability set forth
19 under the Constitution and laws of that state for state officials, employees,
20 and agents. The Interstate Commission shall be considered an
21 instrumentality of the states for the purposes of any such action. Nothing in
22 this subsection shall be construed to protect such person from suit or
23 liability for damage, loss, injury, or liability caused by a criminal act or the
24 intentional or willful and wanton misconduct of such person.

25 (b) The Interstate Commission shall defend the staff director and its employees
26 and, subject to the approval of the Attorney General or other appropriate
27 legal counsel of the member state, shall defend the commissioner of a

1 member state in a civil action seeking to impose liability arising out of an
 2 actual or alleged act, error, or omission that occurred within the scope of
 3 Interstate Commission employment, duties or responsibilities, or that the
 4 defendant had a reasonable basis for believing occurred within the scope of
 5 Interstate Commission employment, duties, or responsibilities, provided that
 6 the actual or alleged act, error, or omission did not result from intentional
 7 or willful and wanton misconduct on the part of such person.

8 (c) To the extent not covered by the state involved, member state, or the
 9 Interstate Commission, the representatives or employees of the Interstate
 10 Commission shall be held harmless in the amount of a settlement or
 11 judgment, including attorney's fees and costs, obtained against such
 12 persons arising out of an actual or alleged act, error, or omission that
 13 occurred within the scope of Interstate Commission employment, duties, or
 14 responsibilities, or that such persons had a reasonable basis for believing
 15 occurred within the scope of Interstate Commission employment, duties, or
 16 responsibilities, provided that the actual or alleged act, error, or omission
 17 did not result from intentional or willful and wanton misconduct on the part
 18 of such persons.

19 ARTICLE XI

20 RULE MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

- 21 (1) The Interstate Commission shall promulgate and publish rules in order to
 22 effectively and efficiently achieve the purposes of the compact.
- 23 (2) Rule making shall occur pursuant to the criteria set forth in this article and the
 24 bylaws and rules adopted pursuant thereto. Such rule making shall substantially
 25 conform to the principles of the "Model State Administrative Procedures Act,"
 26 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other
 27 administrative procedure acts as the Interstate Commission deems appropriate

1 consistent with due process requirements under the United States Constitution as
2 now or hereafter interpreted by the United States Supreme Court. All rules and
3 amendments shall become binding as of the date specified, as published with the
4 final version of the rule as approved by the Interstate Commission.

5 (3) When promulgating a rule, the Interstate Commission shall, at a minimum:

6 (a) Publish the proposed rule's entire text stating any reason for that proposed
7 rule;

8 (b) Allow and invite any and all persons to submit written data, facts, opinions,
9 and arguments, which information shall be added to the record, and be
10 made publicly available; and

11 (c) Promulgate a final rule and its effective date, if appropriate, based on input
12 from state or local officials, or interested parties.

13 (4) Rules promulgated by the Interstate Commission shall have the force and effect
14 of administrative rules and shall be binding in the compacting states to the extent
15 and in the manner provided for in this compact.

16 (5) Not later than sixty (60) days after a rule is promulgated, an interested person
17 may file a petition in the United States District Court for the District of Columbia
18 or in the Federal District Court where the Interstate Commission's principal
19 office is located for judicial review of such rule. If the court finds that the
20 Interstate Commission's action is not supported by substantial evidence in the
21 rule making record, the court shall hold the rule unlawful and set it aside.

22 (6) If a majority of the legislatures of the member states rejects a rule, those states
23 may by enactment of a statute or resolution in the same manner used to adopt the
24 compact cause that such rule shall have no further force and effect in any
25 member state.

26 (7) The existing rules governing the operation of the Interstate Compact on the
27 Placement of Children superseded by this act shall be null and void no less than

1 twelve (12), but no more than twenty-four (24) months after the first meeting of
 2 the Interstate Commission created hereunder, as determined by the members
 3 during the first meeting.

4 (8) Within the first twelve (12) months of operation, the Interstate Commission shall
 5 promulgate rules addressing the following:

6 (a) Transition rules;

7 (b) Forms and procedures;

8 (c) Time lines;

9 (d) Data collection and reporting;

10 (e) Rule making;

11 (f) Visitation;

12 (g) Progress reports and supervision;

13 (h) Sharing of information and confidentiality;

14 (i) Financing of the Interstate Commission;

15 (j) Mediation, arbitration, and dispute resolution;

16 (k) Education, training, and technical assistance;

17 (l) Enforcement; and

18 (m) Coordination with other interstate compacts.

19 (9) Upon determination by a majority of the members of the Interstate Commission
 20 that an emergency exists:

21 (a) The Interstate Commission may promulgate an emergency rule only if it is
 22 required to:

23 1. Protect the children covered by this compact from an imminent threat
 24 to their health, safety, and well-being;

25 2. Prevent loss of federal or state funds; or

26 3. Meet a deadline for the promulgation of an administrative rule
 27 required by federal law; and

1 (b) An emergency rule shall become effective immediately upon adoption,
 2 provided that the usual rule making procedures provided under this article
 3 shall be retroactively applied to this rule as soon as reasonably possible, but
 4 no later than ninety (90) days after the effective date of the emergency rule;
 5 and

6 (c) An emergency rule shall be promulgated as provided for in the rules of the
 7 Interstate Commission.

8 ARTICLE XII

9 OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

10 Section A. Oversight

11 (1) The Interstate Commission shall oversee the administration and operation of the
 12 compact.

13 (2) The executive, legislative, and judicial branches of state government in each
 14 member state shall enforce this compact and the rules of the Interstate
 15 Commission and shall take all actions necessary and appropriate to effectuate the
 16 compact's purposes and intent. The compact and its rules shall be binding in the
 17 compacting states to the extent and in the manner provided for in this compact.

18 (3) All courts shall take judicial notice of the compact and the rules in any judicial or
 19 administrative proceeding in a member state pertaining to the subject matter of
 20 this compact.

21 (4) The Interstate Commission shall be entitled to receive service of process in any
 22 action in which the validity of a compact provision or rule is the issue for which a
 23 judicial determination has been sought and shall have standing to intervene in
 24 any proceedings. Failure to provide service of process to the Interstate
 25 Commission shall render any judgment, order, or other determination, however
 26 so captioned or classified, void as to the Interstate Commission, this compact, its
 27 bylaws or rules of the Interstate Commission.

1 Section B. Dispute Resolution

2 (1) The Interstate Commission shall attempt, upon the request of a member state, to
3 resolve disputes which are subject to the compact and which may arise among
4 member states and between member and nonmember states.

5 (2) The Interstate Commission shall promulgate a rule providing for both mediation
6 and binding dispute resolution for disputes among compacting states. The costs
7 of such mediation or dispute resolution shall be the responsibility of the parties to
8 the dispute.

9 Section C. Enforcement

10 (1) If the Interstate Commission determines that a member state has defaulted in the
11 performance of its obligations or responsibilities under this compact, its bylaws
12 or rules, the Interstate Commission may:

13 (a) Provide remedial training and specific technical assistance;

14 (b) Provide written notice to the defaulting state and other member states, of
15 the nature of the default and the means of curing the default. The Interstate
16 Commission shall specify the conditions by which the defaulting state shall
17 cure its default;

18 (c) By majority vote of the members, initiate legal action against a defaulting
19 member state in the United State District Court for the District of Columbia
20 or, at the discretion of the Interstate Commission, in the federal district
21 where the Interstate Commission has its principal office, to enforce
22 compliance with the provisions of the compact, its bylaws or rules. The
23 relief sought may include both injunctive relief and damages. If judicial
24 enforcement is necessary, the prevailing party shall be awarded all costs of
25 such litigation including reasonable attorney's fees; or

26 (d) Avail itself of any other remedies available under state law or the regulation
27 of official or professional conduct.

1 be the later of July 1, 2008 or upon enactment of the compact into law by the
 2 thirty-fifth state. Thereafter it shall become effective and binding as to any other
 3 member state upon enactment of the compact into law by that state. The executive
 4 heads of the state human services administration with ultimate responsibility for
 5 the child welfare program of nonmember states or their designees shall be invited
 6 to participate in the activities of the Interstate Commission on a nonvoting basis
 7 prior to adoption of the compact by all states.

8 (3) The Interstate Commission may propose amendments to the compact for
 9 enactment by the member states. No amendment shall become effective and
 10 binding on the member states unless and until it is enacted into law by
 11 unanimous consent of the member states.

ARTICLE XV

WITHDRAWAL AND DISSOLUTION

Section A. Withdrawal

15 (1) Once effective, the compact shall continue in force and remain binding upon
 16 each and every member state, provided that a member state may withdraw from
 17 the compact by specifically repealing the statute which enacted the compact into
 18 law.

19 (2) Withdrawal from this compact shall be by the enactment of a statute repealing
 20 the same. The effective date of withdrawal shall be the effective date of the repeal
 21 of the statute.

22 (3) The withdrawing state shall immediately notify the president of the Interstate
 23 Commission in writing upon the introduction of legislation repealing this
 24 compact in the withdrawing state. The Interstate Commission shall then notify
 25 the other member states of the withdrawing state's intent to withdraw.

26 (4) The withdrawing state shall be responsible for all assessments, obligations, and
 27 liabilities incurred through the effective date of withdrawal.

1 (5) Reinstatement following withdrawal of a member state shall occur upon the
 2 withdrawing state reenacting the compact or upon such later date as determined
 3 by the members of the Interstate Commission.

4 Section B. Dissolution of Compact

5 (1) This compact shall dissolve effective upon the date of the withdrawal or default of
 6 the member state which reduces the membership in the compact to one (1)
 7 member state.

8 (2) Upon the dissolution of this compact, the compact becomes null and void and
 9 shall be of no further force or effect, and the business and affairs of the
 10 Interstate Commission shall be concluded and surplus funds shall be distributed
 11 in accordance with the bylaws.

12 ARTICLE XVI

13 SEVERABILITY AND CONSTRUCTION

14 (1) The provisions of this compact shall be severable, and if any phrase, clause,
 15 sentence or provision is deemed unenforceable, the remaining provisions of the
 16 compact shall be enforceable.

17 (2) The provisions of this compact shall be liberally construed to effectuate its
 18 purposes.

19 (3) Nothing in this compact shall be construed to prohibit the concurrent
 20 applicability of other interstate compacts to which the states are members.

21 ARTICLE XVII

22 BINDING EFFECT OF COMPACT AND OTHER LAWS

23 Section A. Other Laws

24 (1) Nothing in this compact prevents the enforcement of any other law of a member
 25 state that is not inconsistent with this compact.

26 Section B. Binding Effect of the Compact

27 (1) All lawful actions of the Interstate Commission, including all rules and bylaws

1 promulgated by the Interstate Commission, shall be binding upon the member
 2 states.

3 (2) All agreements between the Interstate Commission and the member states shall
 4 be binding in accordance with their terms.

5 (3) If any provision of this compact exceeds the constitutional limits imposed on the
 6 legislature of any member state, such provision shall be ineffective to the extent
 7 of the conflict with the constitutional provision in question in that member state.

8 ARTICLE XVIII

9 INDIAN TRIBES

10 Notwithstanding any other provision in this compact, the Interstate Commission may
 11 promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or
 12 all of the purposes of the compact as specified in Article I. The Interstate Commission
 13 shall make reasonable efforts to consult with Indian tribes in promulgating guidelines
 14 to reflect the diverse circumstances of the various Indian tribes.

15 → Section 6. KRS 615.040 is amended to read as follows:

16 The following provisions apply to the compact described in KRS 615.030:

17 (1) The following definitions apply to KRS 615.030:

18 (a) As defined~~[used]~~ in subsection (18)~~[paragraph (a)]~~ of Article I~~[V]~~ of the
 19 interstate compact on the placement of children, the phrase "public child
 20 placing agency"~~["appropriate authority in the receiving state"]~~ with reference
 21 to this state shall mean the Cabinet for Health and Family Services.

22 ~~(b) The "appropriate public authorities" as used in Article III of the interstate~~
 23 ~~compact on the placement of children shall, with reference to this state, mean~~
 24 ~~the Cabinet for Health and Family Services and said cabinet shall receive and~~
 25 ~~act with reference to notices required by said Article III.~~

26 ~~(e)~~ As used in Article VIII~~[VII]~~ of the interstate compact on the placement of
 27 children, the term "executive head" means the Governor. The Governor is

- 1 hereby authorized to appoint a compact administrator in accordance with the
2 terms of said Article ~~VIII~~[VII].
- 3 (2) Financial responsibility for any child placed pursuant to the provisions of the
4 interstate compact on the placement of children:
- 5 (a) Shall be determined in accordance with the provisions of Article ~~VII~~[VI]
6 thereof in the first instance. However, in the event of partial or complete
7 default of performance thereunder, the provisions of KRS 405.020 shall apply.
- 8 (b) The officers and agencies of this state and its subdivisions having authority to
9 place children are hereby empowered to enter into agreements with
10 appropriate officers or agencies of or in another party state pursuant to
11 ~~subsection (5)~~[paragraph (b)] of Article ~~VII~~[VI] of the interstate compact on
12 the placement of children. Any such agreement which contains a financial
13 commitment or imposes a financial obligation on this state or subdivision or
14 agency thereof shall not be binding unless it has the approval in writing of the
15 secretary of the Finance and Administration Cabinet in the case of the state
16 and of the chief local fiscal officer in the case of a subdivision of the state.
- 17 (3) Any court having jurisdiction to place delinquent children may place such a child in
18 an institution of or in another state pursuant to Article ~~IV~~[VI] of the interstate
19 compact on the placement of children and shall retain jurisdiction as provided in
20 Article ~~IV~~[VI] of KRS 615.030 thereof.
- 21 (4) No person or institution shall bring or send, or cause to be brought or sent, a
22 dependent child into this state from another state for the purpose of placing him in a
23 family home, either with or without indenture or for adoption, without first filing a
24 ten thousand dollar (\$10,000) bond with the county judge/executive of the county in
25 which the child is to be placed.
- 26 (5) The bond shall be conditioned as follows:
- 27 (a) That they will not bring or send, or cause to be brought or sent, into this state

- 1 any child that is incorrigible or of unsound mind or body or who has any
2 contagious or incurable disease;
- 3 (b) That they will immediately, upon placing the child, report to the department
4 the name and age of the child, and the name and residence of the person with
5 whom he is placed;
- 6 (c) That if the child becomes a public charge before reaching his majority, they
7 will, within thirty (30) days after receiving written notice of such fact from the
8 department, remove the child from the state;
- 9 (d) That if the child is convicted of a crime or misdemeanor and is imprisoned,
10 within five (5) years of the time of his arrival, they will remove the child from
11 the state immediately upon his release;
- 12 (e) That they will place each dependent child by written contract with a person
13 who will furnish the child a proper home, and will make the person receiving
14 the child responsible for its proper care, education, and training;
- 15 (f) That they will properly supervise the care and training of the child, and visit
16 each child at least once a year;
- 17 (g) That they will make such reports to the department as the department requires.
- 18 (6) The provisions of KRS 615.030 shall not apply to a parent, stepparent, grandparent,
19 adult brother or sister, or adult uncle or aunt going to any other state or country and
20 bringing a child into this state for the purpose of giving it a home in his own family,
21 and may be waived by the department for any child brought into the state under the
22 supervision of the division or licensed child-caring or child-placing institution or
23 agency by written agreement with the responsible agency of the other state or
24 country, or under special circumstances agreed to in writing by the cabinet and the
25 persons wishing to import a child.
- 26 (7) The provisions of subsections (4) and (5) of this section shall not apply to
27 placements made pursuant to the interstate compact on the placement of children.

1 →Section 7. KRS 620.100 is amended to read as follows:

2 (1) If the court determines, as a result of a temporary removal hearing, that further
3 proceedings are required, the court shall advise the child and his parent or other
4 person exercising custodial control or supervision of their right to appointment of
5 separate counsel:

6 (a) The court shall appoint counsel for the child to be paid for by the Finance and
7 Administration Cabinet. Counsel shall document participation in training on
8 the role of counsel that includes training in early childhood, child, and
9 adolescent development. The clerk of the court shall arrange for service on all
10 parties, including the local representative of the Cabinet for Health and Family
11 Services, of the order appointing counsel. The fee to be fixed by the court
12 shall not exceed five hundred dollars (\$500); however, if the action has final
13 disposition in the District Court, the fee shall not exceed two hundred fifty
14 dollars (\$250);

15 (b) The court shall appoint separate counsel for the parent who exercises custodial
16 control or supervision if the parent is unable to afford counsel pursuant to
17 KRS Chapter 31. The clerk of the court shall arrange for service on all parties,
18 including the local representative of the Cabinet for Health and Family
19 Services, of the order appointing counsel. The parent's counsel shall be
20 provided or paid for by the Finance and Administration Cabinet. The fee to be
21 fixed by the court shall not exceed five hundred dollars (\$500); however, if
22 the action has final disposition in the District Court, the fee shall not exceed
23 two hundred fifty dollars (\$250);

24 (c) The court may, in the interest of justice, appoint separate counsel for a
25 nonparent who exercises custodial control or supervision of the child, if the
26 person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of
27 the court shall arrange for service on all parties, including the local

1 representative of the Cabinet for Health and Family Services, of the order
2 appointing counsel. Counsel for the person shall be provided or paid for by the
3 Finance and Administration Cabinet. The fee to be fixed by the court shall not
4 exceed five hundred dollars (\$500); however, if the action has final
5 disposition in the District Court, the fee shall not exceed two hundred fifty
6 dollars (\$250); and

7 (d) The court may, in the interest of justice, appoint a court-appointed special
8 advocate volunteer to represent the best interests of the child pursuant to KRS
9 620.500 to 620.550. The clerk of the court shall arrange for service on all
10 parties, including the local representative of the cabinet, of the order
11 appointing the court-appointed special advocate volunteer.

12 (2) If the court determines that further proceedings are required, the court also shall
13 advise the child and his parent or other person exercising custodial control or
14 supervision that they have a right to not incriminate themselves, and a right to a full
15 adjudicatory hearing at which they may confront and cross-examine all adverse
16 witnesses, present evidence on their own behalf and to an appeal.

17 (3) The adjudication shall determine the truth or falsity of the allegations in the
18 complaint. The burden of proof shall be upon the complainant, and a determination
19 of dependency, neglect, and abuse shall be made by a preponderance of the
20 evidence. The Kentucky Rules of Civil Procedure shall apply.

21 (4) The disposition shall determine the action to be taken by the court on behalf of the
22 child and his parent or other person exercising custodial control or supervision.

23 (5) Foster parents, preadoptive parents, or relatives providing care for the child shall
24 receive notice of, and shall have a right to be heard in, any proceeding held with
25 respect to the child. This subsection shall not be construed to require that a foster
26 parent, preadoptive parent, or relative caring for the child be made a party to a
27 proceeding solely on the basis of the notice and right to be heard.

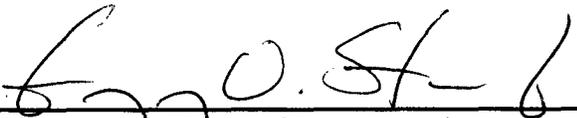
1 ➔Section 8. KRS 202B.210 is amended to read as follows:

2 Upon the filing of a petition for involuntary admission pursuant to KRS 202B.045, the
3 court shall appoint an attorney to represent the respondent with the appointment and
4 representation to continue unless the respondent retains private counsel. The appointed
5 attorney shall be forthwith notified by the clerk of the allegations in the petition and the
6 date and purpose of the preliminary hearing. When it is necessary to appoint counsel, the
7 District Court shall endeavor to appoint private counsel, if available, to represent
8 respondents, from a list of attorneys who have volunteered to represent such respondents.
9 The list shall be maintained by the District Court clerk. Private counsel appointed by the
10 court shall be compensated in the manner set forth in Section 7 of this Act [KRS
11 620.100(1)(a)]. If no other method of appointing counsel for the respondent is available,
12 the respondent shall be represented by the public advocate pursuant to KRS Chapter 31.

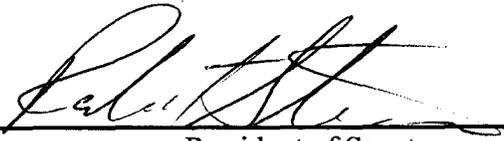
13 ➔Section 9. Sections 5 and 6 of this Act take effect as provided in Article XIV of
14 Section 5 of this Act, upon the legislative enactment of the compact into law by no fewer
15 than 35 states.

16 ➔Section 10. The Cabinet for Health and Family Services shall notify the Reviser
17 of Statutes at the Legislative Research Commission when the thirty-fifth state has enacted
18 the Interstate Compact for the Placement of Children.

19 ➔Section 11. Whereas the safe and secure custody and visitation of children being
20 of great importance to all Kentuckians and no just cause exists for delay, an emergency is
21 declared to exist and Sections 1 and 2 of this Act take effect upon its passage and
22 approval by the Governor or upon its otherwise becoming a law.



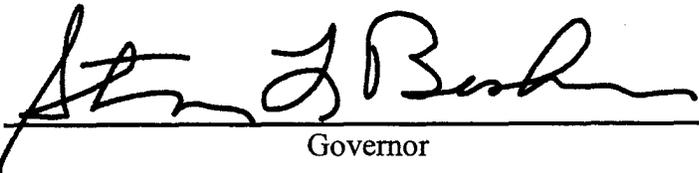
Speaker-House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 3-22-13